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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,137

03/11/2004

Timothy D. Killinger

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

07/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/798,137	Applicant(s) KILLINGER ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,11-16,21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,11-16,21 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 11-16, 23 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apt, III et al., [U.S. Des. 360,778] in view of Wolff [U.S. Des. 379,122 & U.S. Des. 388,957]. Apt (figures 1-6) teaches of a storage container (fig. 1) comprising a storage frame (frame – fig. 1) having a frame bottom (fig. 6) and a plurality of interconnected side frames (side frames depicted in the figures) extending from and connected to the bottom frame, the side frames terminating at a top end that defines an opening into the frame interior; a container lid (depicted lid) having a lid rim (note figures 1, 3 & 4 e.g.), wherein the lid can be removably mounted on the frame with the rim registered with the top end of the frame as readily apparent to the examiner; and a drawer (shown in fig. 1) movably mounted within the storage frame for movement between extended [open position] and retracted [closed position] positions. Apt teaches applicant's inventive claimed storage container as disclosed above, including the bottom frame having a bottom panel, wherein the plurality of side frames include a rear panel and a pair of side panels extending from and connected to the bottom panel, and the bottom frame being arranged to be stacked upon another container lid of a similarly arranged second storage container as readily apparent to the examiner; but Apt does not show the container lid as including a pivot extending

from a side portion of the lid and the pivot adapted to nest in a depression formed in at least one of the side frames. The publications to Wolff are cited as evidence references to show that it was known in the storage container art to 1) provide a storage frame [122] having opposing side frames with at least one of the side frames incorporating a depression (note the depressions formed in opposite ends of the upper middle section of the foremost side frame) for the nesting of a pivot, and 2) provide a container lid [957] including a pivot (note fig. 1 or 2) extending from a side portion of the lid. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the storage container of Apt so as to incorporate the known lid and side frame features as evidenced by Wolff because this arrangement would allow the lid of Apt to be pivotable along either longitudinal side frames of the storage container so that access to the top of the container is possible without having to completely remove and displace the lid relative to the container. When modified, the container lid can be pivotably mounted to the storage frame about an axis defined by the pivot as readily apparent to the examiner and arranged to be alternatively mounted to a first one or to a second one of the side frames. Furthermore, when modified, the side frames include a handle (note grooved portions terminating in a handle in the side frames) capable of lifting the storage container. As to claim 16 [material used to construct the storage frame], the references are not explicit as to the type of material used for construction. However, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of material used to construct the device depending upon application considerations [i.e., the intended use of the device] and design preferences and since it has been held to be within the

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general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

3. Claims 4, 6, 21 & 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apt, III et al., [U.S. Des. 360,778] in view of Wolff [U.S. Des. 379,122 & U.S. Des. 388,957] and further in view of Kahl et al., [U.S. Patent No. 5,125,697]. The prior art as modified above teaches applicant's inventive claimed storage container as disclosed above, including the storage frame having a support beam extending between the second end of the side panels [note fig. 1 of Apt showing a support beam located above the drawer opening and connected to the top ends of the side panels], but the references do not show a first handle mounted to a first one of the side frames, and a second handle mounted to a second one of the side frames, with the first and second handles being pivotable between a first position wherein the handle is arranged to engage the container lid to form a pivot hinge about which the container is pivotable, and a second position wherein the handle is arranged to disengage the container lid. Nonetheless, Kahl (figures 1-4) is cited as an evidence reference to show that it was known in the art to incorporate pivoting handles (13) arranged to engage the container lid [note col. 2 to col. 3 where Kahl states that the handles "can be utilized with containers of essentially all configurations with container being depicted merely to show the environment" for the handles] in the manner disclosed by applicant. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the storage container of the prior art so as to incorporate the known handle arrangement utilized with a storage container as evidenced by Kahl because this

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arrangement would allow the modified storage container of the prior art to releasably attach the container lid to the storage frame (see disclosure of Kahl). As to claim 26, Wolff `122 teaches that the depressions have a generally arcuate half cylinder shape (note fig. 1 where one of the depressions is clearly visible). As to claim 27, Kahl teaches that the handle further includes a tab (viewed as element 35) extending from a top portion of the handle and a detent (36) extending from a bottom portion of the tab, the detent adapted to engage a portion of the lid when the handle is in engaged position [securing the lid to the storage frame].

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
June 22, 2007

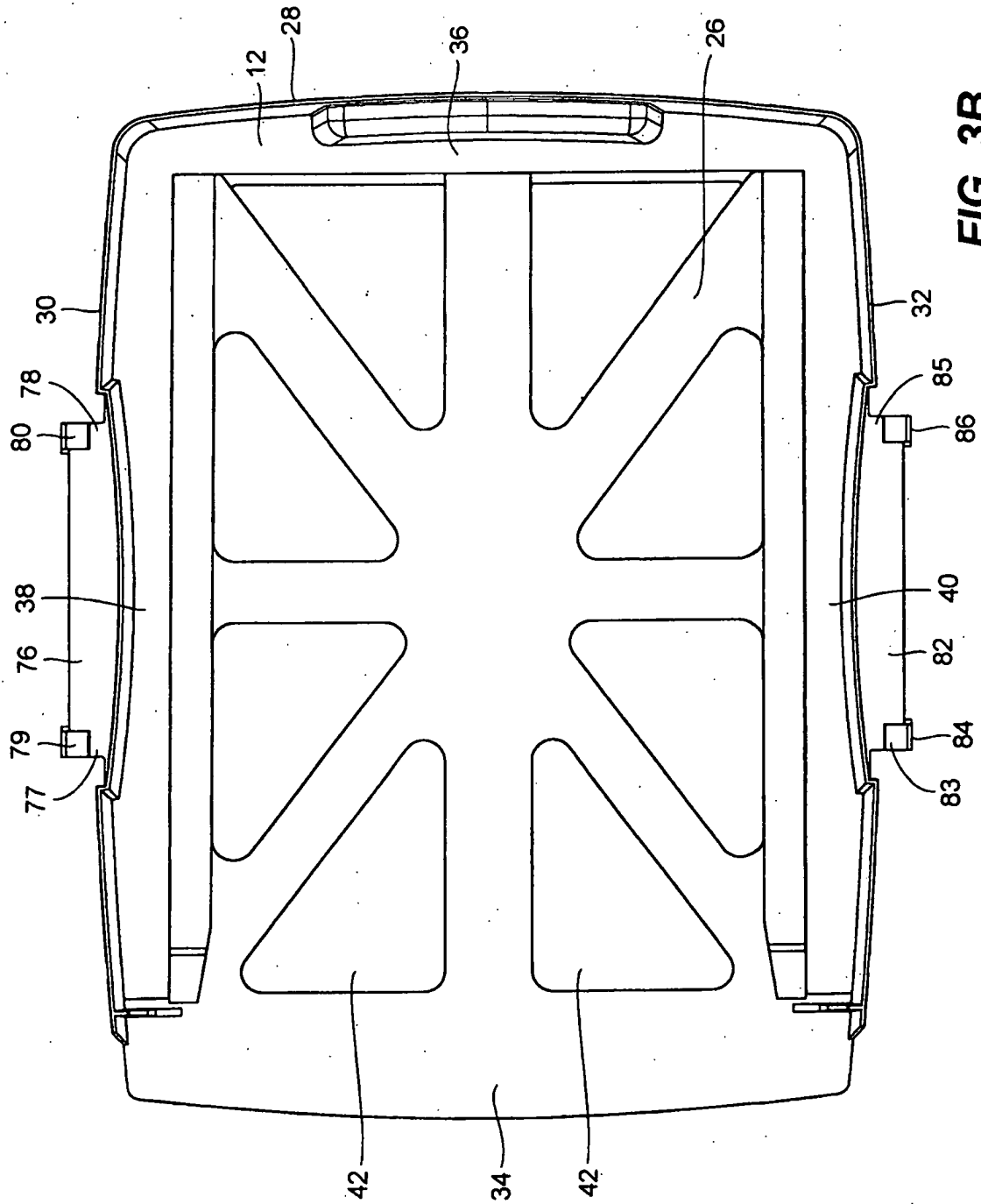


FIG. 3B

Approved for examination purposes
 Jph 6/19/07

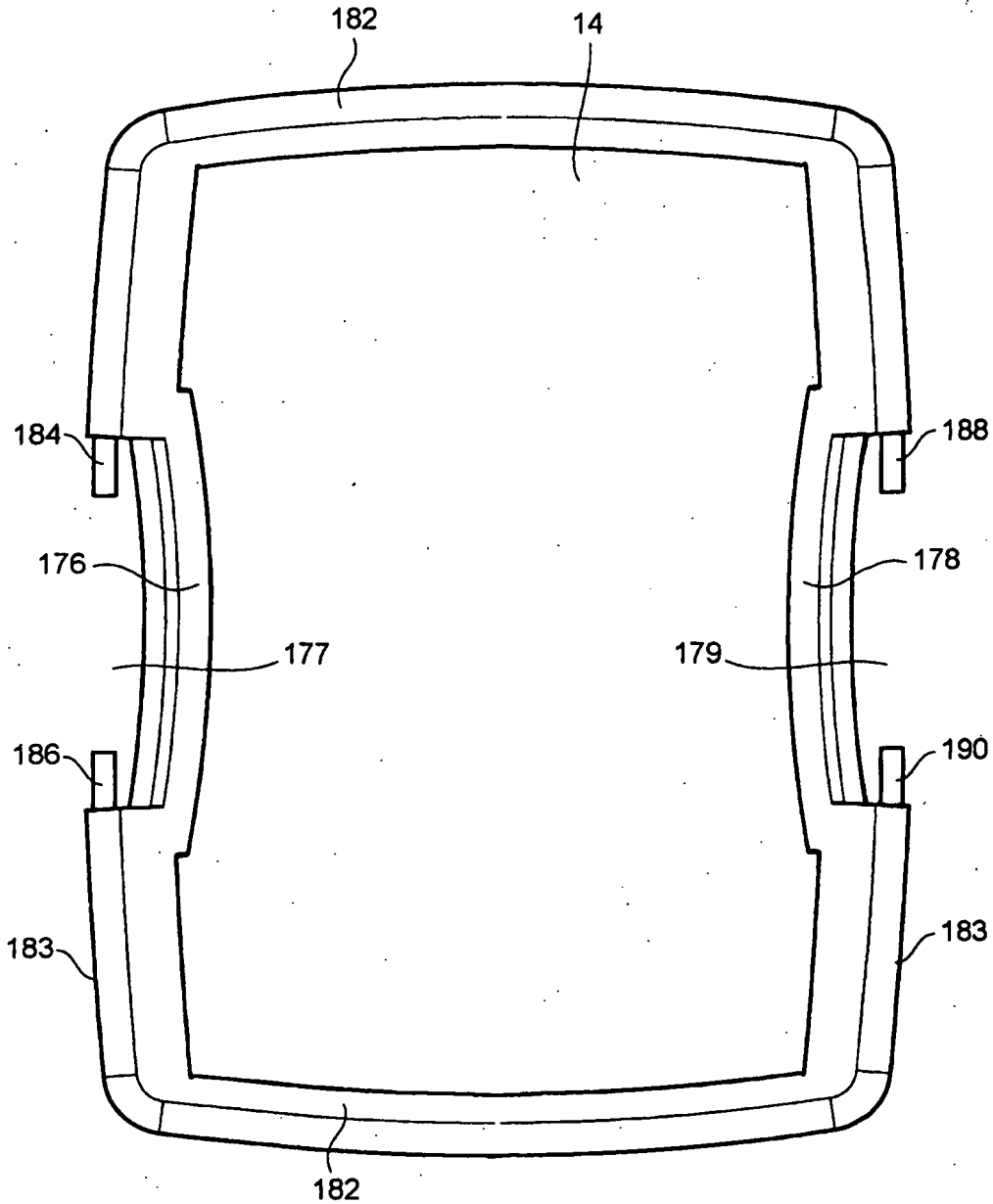


FIG. 7B

Approved for examination purposes
Apr 6/19/07